

# Partners in Integrity

## Preventing Fraud, Waste, and Abuse in Medicaid Home Health Services and Durable Medical Equipment



## Content Summary

Fighting the inappropriate loss of Medicaid health care dollars through fraud, waste, abuse, and other improper payments is a high government priority. Home health agencies and durable medical equipment (DME) providers offer services and supplies vulnerable to fraud. Physicians have the potential to play a significant role in the fight against fraud, waste, and abuse in all areas of Medicaid, including home health and DME. While the specific requirements for home health and DME can vary from State to State, all States require furnished services to be medically necessary. Physicians have a responsibility to know the rules for home health and DME services as required by State Medicaid programs.

Physicians should be aware of practices that are fraudulent or determined to be abusive or wasteful. Examples of home health fraud include falsely attesting to the medical necessity of home health services, accepting compensation for ordering specific services irrespective of medical necessity, or physicians signing plans of care for Medicaid beneficiaries not under their care. Examples of DME fraud, waste, and abuse include physicians selling medically unnecessary prescriptions and DME companies recruiting patients and billing Medicaid for more expensive equipment than what is delivered.

Medicaid made an estimated \$14.4 billion (5.8 percent) in improper payments in fiscal year 2013.[1] The percentage has steadily decreased from 2008.[2] Even with the decreases, the Government Accountability Office recently emphasized the need for increased oversight on managed care expenses.[3]

Medicaid has been designated a high-risk program “particularly vulnerable” to fraud, waste, abuse, and improper payments.[4] Fighting the inappropriate loss of health care dollars is a high government priority, and physicians have the potential to play a significant role in the fight against it in all areas of Medicaid, including home health services and durable medical equipment (DME). As integral partners protecting public health care programs and benefits, all physicians should be aware of practices that are fraudulent, wasteful, or abusive.

## Medicaid Home Health Services

Medicaid home health services are a mandatory service under Section 1902(a)(10)(D) of the Social Security Act.[5] These home health services include:

- Skilled nursing services;
- Home health aides; and
- Medical supplies, medical equipment, and appliances suitable for use in the home.[6]

A State may also furnish optional services through its Medicaid home health State plan benefit.[7] Most States furnish services through Federal waivers. The services included in a waiver must not duplicate services that are furnished under the State plan. However, through a waiver a State may augment the services furnished under the State plan.[8] Physicians should be sure to understand the specific requirements for furnishing services in the States where they practice.

Each State Medicaid program has the flexibility to determine the amount, scope, and duration of the home health services it furnishes to meet the needs of its beneficiaries.[9] All furnished home health services must be medically necessary, as provided in each State’s plan for medical assistance and supporting guidelines. Physicians play a vital role in ensuring the medical necessity of Medicaid home health services. They are responsible for developing a plan of care for the services patients receive.[10] Supporting documentation verifying medical need and clinical rationale must be recorded in the beneficiary’s medical record.[11, 12]

Home health services must be reviewed by a physician every 60 days.[13] Some States require the physician to review the beneficiary’s plan of care and determine the medical need for certification of continued or additional services prior to reauthorizing ongoing services or authorizing additional services.[14]

## Home Health Fraud, Waste, and Abuse

The U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) recently released a report on questionable billing issues in home-health agencies.[15] Physicians should be aware of home health activities that are considered fraudulent, abusive, or wasteful. They can include:

- A personal care and respite service provider and the office staff conspired to submit claims for services not delivered and altered company records, including time sheets;[16]
- A home health care provider paid uncovered costs for beneficiaries’ DME and gave beneficiaries gifts in exchange for signing up for his home health services. The same provider also paid kickbacks to staff at senior living facilities for referring these beneficiaries;[17] and
- A provider billed for in-home services that were not medically necessary and that were not delivered by certified mental health workers. In addition, the provider paid a marketing firm for the referrals.[18]

The Affordable Care Act § 6401[19] amended § 1866(j)(7) of the Social Security Act to allow the Centers for Medicare & Medicaid Services (CMS) to impose “a temporary moratorium on the enrollment of new providers of services and suppliers, including categories of providers of services and suppliers” for Medicare, Medicaid, and the Children’s Health Insurance Program (CHIP).[20] CMS does work with State Medicaid agencies to determine the availability of services in an area before imposing an enrollment moratorium. As of this publication, several geographic regions had moratoria on home-health services providers. The moratoria are reviewed every 6 months, may be extended in six month increments as needed (decisions published in the Federal Register[21]), and are not subject to judicial review.[22, 23]

## **Durable Medical Equipment Coverage**

Mandatory benefits under Medicaid home health services include the coverage of “medical supplies, equipment, and appliances suitable for use in the home.”[24] These services can be referred to as DME. Just as physicians play an important role in certifying that home health services are medically necessary, they play an equally important role in certifying the need for DME.

All DME benefits furnished to a Medicaid beneficiary must be necessary and ordered by a physician. Each State requires documentation justifying the medical need for DME and supplies ordered. States may have a prior authorization process for some equipment, such as an oximeter or electronic nebulizer. States may also require a Certificate of Medical Necessity (CMN) containing additional clinical justification for certain kinds of equipment, such as a customized wheelchair or an air fluidized bed.[25] It is important for physicians to know and understand the requirements for the States where they practice so they meet criteria and can assist in the fight against fraud, waste, and abuse.

## **DME Fraud, Waste, and Abuse**

The following are examples of DME fraud, waste, and abuse:

- A DME supply company owner purchased authentic and forged physician orders and used them to bill Medicare and Medicaid for DME never delivered to the beneficiaries. The owner also upcoded the claims to receive more money;[26]
- A DME business owner and associates used a marketing firm to obtain Medicare and Medicaid numbers from beneficiaries to bill for power wheelchairs and other items that were never prescribed, or prescribed and never delivered;[27]
- A supplier of adult urinary incontinence supplies overbilled Medicaid for delivering fewer items to the beneficiary than he billed to Medicaid, for supplies the beneficiary did not want or that had not been prescribed, and for the largest size possible of adult diapers without regard to the size of the beneficiary;[28]
- At the prompting of a DME provider, a physician signed a stack of blank CMNs and prior authorization forms that the DME provider then completed with false information and billed for reimbursement;[29] and
- A DME provider submitted 100 claims using code K0011 to bill Medicaid for the most expensive power wheelchair, but delivered less expensive, basic power wheelchairs that cost half as much.[30]

## **How Physicians and Other Providers Can Promote Program Integrity**

Physicians ordering home health services and DME play an important role in promoting integrity to minimize and prevent fraud, waste, and abuse in Medicaid programs. The following are key points for providers to remember.



1. **Confirm eligibility:** Verify the Medicaid eligibility status of patients at the time of service.
2. **Include identifiers:** If required by the State when ordering services or supplies, the ordering provider's signature and National Provider Identifier (NPI) should be included on the CMN or other prior authorization form.[31, 32]
3. **Order appropriately:** Order according to the medical needs of the beneficiary within the limits set by the State.
4. **Maintain organized records:** Keep patient records organized and up-to-date, and confirm that the patient's condition warrants the service requested in the CMN or prior authorization request.
5. **Educate staff:** Providers should educate staff on the issues and schemes that constitute fraud, waste, and abuse.
6. **Practice within scope:** Always document the medical necessity of the service(s) ordered. If a medically unnecessary service is billed or if the documentation does not justify medical necessity, it may be considered a false claim.
7. **Protect yourself:** Be on the alert for other professionals who may make inappropriate requests, such as a "quick signature" on a document for a patient never seen, asking for additional patient services because of convenience rather than medical necessity (for example, ambulance transportation instead of a medivan), asking for beneficiary medical identifiers when there is no specific need, or offering to provide remuneration for beneficiary referrals.

## Fraud and Abuse: How Do You Report Them?

To report fraud and abuse:

Contact your State Medicaid Fraud Control Unit or State Medicaid agency. Contact information can be found at [https://www.cms.gov/medicare-medicaid-coordination/fraud-prevention/fraudabuseforconsumers/report\\_fraud\\_and\\_suspected\\_fraud.html](https://www.cms.gov/medicare-medicaid-coordination/fraud-prevention/fraudabuseforconsumers/report_fraud_and_suspected_fraud.html) on the CMS website.

Contact the HHS-OIG:

Office of Inspector General  
U.S. Department of Health and Human Services  
ATTN: Hotline  
P.O. Box 23489  
Washington, DC 20026  
Phone: 1-800-HHS-TIPS (1-800-447-8477)  
TTY: 1-800-377-4950  
Fax: 1-800-223-8164  
Email: [HHSTips@oig.hhs.gov](mailto:HHSTips@oig.hhs.gov)  
Website: <https://forms.oig.hhs.gov/hotlineoperations/>

To see the electronic version of this booklet and the other products included in the "Partners in Integrity" Toolkit, visit the Medicaid Program Integrity Education page at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

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